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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/926,290	10/30/2001	Jacques Granger	01183	4898

23338 7590 02/13/2004

DENNISON, SCHULTZ, DOUGHERTY & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA, VA 22314

EXAMINER

ELOSHWAY, NIKI MARINA

ART UNIT PAPER NUMBER

3727

DATE MAILED: 02/13/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/926,290

Applicant(s)

GRANGER ET AL.

Examiner

Niki M. Eloshway

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☐ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _.
 - 3) ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 11-6-01.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 4-6, 8, 9, 12, 15, 16, 18-20 and 22 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claims are considered vague and indefinite for the following reasons:

- (a) In claim 4, the phrase "or not depending on the height in question" renders the claim vague. What is the height in question?
- (b) In claim 5, the phrase "typically by gluing" renders the claim indefinite because it is unclear whether the gluing is part of the claimed invention.
- (c) In claim 6, it is suggested that PP be replaced with the complete word.
- (d) In claim 9, the phrase "typically polystyrene" renders the claim indefinite because it is unclear whether the polystyrene is part of the claimed invention.
- (e) In claim 8, the phrase "typically brushed or anodised" renders the claim indefinite because it is unclear whether applicant is claiming that the invention is brushed or anodised.
- (f) In claim 12, the phrase "typically by means of a lower rim" renders the claim indefinite because it is unclear whether this feature is part of the claimed invention.
- (g) In claim 13, the phrase "typically comprises an added seal" renders the claim indefinite because it is unclear whether this feature is part of the claimed invention.

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(h) Claims 15, 16, 18-20 and 22 contain phrases beginning with "typically" which render the claims indefinite.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 9, 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Batteggazzore (U.S. 6,276,544) in view of Trout (U.S. 5,749,484). Batteggazzore discloses the claimed invention except for the pilfer-proof means of the inner part. Trout teaches that it is known to provide a cap with a pilfer-proof means on the inner part (see element 50). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the cap of Batteggazzore with the inner part having pilfer-proof means, as taught by Trout, in order to indicate tampering.

5. Claims 7, 8, 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Batteggazzore (U.S. 6,276,544) in view of Trout (U.S. 5,749,484), as applied to claim 1 above, and further in view of Granger (U.S. 6,403,173). The modified cap of Batteggazzore discloses the claimed invention except for the outer part being metal and attached by gluing. Granger et al. teaches that it is known to form an outer part of metal and to glue it to the insert. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified cap of Batteggazzore with the outer part being metal and glued to the insert, in order to secure the elements together more securely.

6. Claims 14-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Batteggazzore (U.S. 6,276,544) in view of Trout (U.S. 5,749,484), as applied to claim 13 above, and further in view

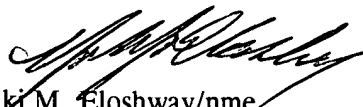
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of Luenser et al. (U.S. 4,462,502). The modified cap of Battagazzore discloses the claimed invention except for the added seal. Luenser et al. teaches that it is known to provide a cap with an added seal. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the modified cap of Battagazzore with the added seal of Luenser et al., in order to allow the user to replace the seal without having to replace the inner part.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art is cited for the outer part.
8. This Action is Non-Final.
9. In order to reduce pendency and avoid potential delays, Technology Center 3700 is encouraging FAXing of responses to Office Actions directly to (703)872-9306. This practice may be used for filing papers not requiring a fee. It may also be used for filing papers which require a fee by applicants who authorize charges to a USPTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX will be promptly forwarded to the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Niki M. Eloshway whose telephone number is (703) 308-1606. The examiner is in the office on Tuesdays and Fridays. Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Customer Service Office at (703) 306-5648.


Niki M. Eloshway/nme
Patent Examiner
February 6, 2004